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**FILED**

FEB - 5 2016

CLERK, U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
BY                       
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,  
  
Plaintiff,

v.

JEFFREY T. CROTHERS,  
  
Defendant.

CASE NO. 2:16-cr-00012-GEB  
PLEA AGREEMENT

**I. INTRODUCTION**

**A. Scope of Agreement.**

The Information in this case charges the defendant with a violation of 18 U.S.C. §§ 371 and 1344 – conspiracy to commit bank fraud. This document contains the complete plea agreement between the United States Attorney’s Office for the Eastern District of California (the “government”) and the defendant regarding this case. This plea agreement is limited to the United States Attorney’s Office for the Eastern District of California and cannot bind any other federal, state, or local prosecuting, administrative, or regulatory authorities.

**B. Rule 11(c)(1)(C) Agreement**

The government and the defendant agree that a specific sentence, set forth below in paragraph VI.C., would be appropriate in this case. Consequently, this plea agreement is being offered to the Court

1 pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure.

2 Under the provisions of Rule 11(c)(3), the Court may accept or reject the plea agreement, or may  
3 defer its decision as to the acceptance or rejection until there has been an opportunity to consider the  
4 presentence report. If the Court accepts the plea agreement, the Court will inform the defendant that it  
5 will embody in the judgment and sentence the disposition provided for in this plea agreement. If the  
6 Court rejects this plea agreement, the Court shall so advise the defendant, allow the defendant the  
7 opportunity to withdraw his plea, and advise him that if he persists in a guilty plea the disposition of the  
8 case may be less favorable to him than is contemplated by this plea agreement.

9 **II. DEFENDANT'S OBLIGATIONS**

10 **A. Guilty Plea.**

11 The defendant will plead guilty to a single count Information charging him with conspiracy to  
12 commit bank fraud in violation of Title 18, United States Code, Sections 371 and 1344. The defendant  
13 agrees that he is in fact guilty of that charge and that the facts set forth in the Factual Basis for Plea  
14 attached hereto as Exhibit A are accurate. The defendant agrees to recommend a sentence of  
15 imprisonment of 3 and 1/2 months in custody followed by a term of supervised release that substitutes  
16 home detention for custody for another 4 and 1/2 months.

17 The defendant agrees that this plea agreement will be filed with the Court and become a part of  
18 the record of the case.

19 The defendant agrees that the statements made by him in signing this Agreement, including the  
20 factual admissions set forth in the factual basis, shall be admissible and useable against the defendant by  
21 the United States in any subsequent criminal or civil proceedings, unless the defendant fails to enter a  
22 guilty plea pursuant to this Agreement because the Court rejects this plea agreement. The defendant  
23 waives any rights under Fed. R. Crim. P. 11(f) and Fed. R. Evid. 410, to the extent that these rules are  
24 inconsistent with this paragraph or with this Agreement generally.

25 **1. Waiver of Indictment:**

26 The defendant acknowledges that under the United States Constitution, he is entitled to be  
27 indicted by a grand jury on the charge to which he is pleading guilty. Pursuant to Fed.R.Crim.P. 7(b) he  
28 agrees to waive any and all rights he has to being prosecuted by way of Indictment to the charge set

1 forth in the Information. The defendant agrees that at a time set by the Court, he will sign a written  
2 waiver of prosecution by Indictment and consent to proceed by Information rather than by Indictment.

3           2.       Waiver of Statute of Limitations

4           The defendant acknowledges that the statute of limitations for the offense to which he is pleading  
5 guilty, conspiracy under 18 U.S.C. § 371, is five years. Nevertheless, he waives his statute of limitations  
6 defense because pleading to a crime under Section 371 lowers the applicable sentencing guideline range  
7 under Section 2B1.1.

8           **B.       Restitution.**

9           The Mandatory Victim Restitution Act requires the Court to order restitution to the victims of  
10 certain offenses, including the offense to which the defendant is pleading guilty. The defendant  
11 therefore agrees that the conduct to which he is pleading guilty requires mandatory restitution pursuant  
12 to 18 U.S.C. § 3663A(c)(1)(A)(ii), and agrees to pay restitution to the victim – PNC Bank - for the total  
13 loss to the victim as a result of the scheme in an amount of \$87,000. Restitution payments shall be by  
14 cashier's or certified check made payable to the Clerk of the Court and be made prior to sentencing. The  
15 defendant further agrees that he will not seek to discharge any restitution obligation or any part of such  
16 obligation in any bankruptcy proceeding. The defendant understands that this plea agreement is  
17 voidable at the option of the government if he fails to pay the stipulated restitution prior to his  
18 scheduled court appearance for sentencing.

19           **C.       Fine.**

20           The defendant agrees to pay a criminal fine as ordered by the Court. The defendant understands  
21 that this plea agreement is voidable at the option of the government if he fails to pay the fine as required  
22 by this plea agreement.

23           **D.       Special Assessment.**

24           The defendant agrees to pay a special assessment of \$100 at the time of sentencing by delivering  
25 a check or money order payable to the United States District Court to the United States Probation Office  
26 immediately before the sentencing hearing. The defendant understands that this plea agreement is  
27 voidable at the option of the government if he fails to pay the assessment prior to that hearing.  
28

**E. Violation of Plea Agreement by Defendant/Withdrawal of Plea**

If the defendant, cooperating or not, violates this plea agreement in any way, or withdraws or tries to withdraw his plea, unless he does so because the Court rejects this plea agreement, this plea agreement is voidable at the option of the government. The government will no longer be bound by its representations to the defendant concerning the limits on criminal prosecution and sentencing as set forth herein. One way a defendant violates the plea agreement is to commit any crime or provide any statement or testimony which proves to be knowingly false, misleading, or materially incomplete. Any post-plea conduct by a defendant constituting obstruction of justice will also be a violation of the agreement. The determination whether the defendant has violated the plea agreement will be under a probable cause standard.

If the defendant violates the plea agreement, or withdraws or tries to withdraw his plea, unless he does so because the Court rejects this plea agreement, the government shall have the right (1) to prosecute the defendant on the count to which he pleaded guilty; (2) to file any additional charges against the defendant that could be filed as a result of the investigation that led to the captioned Information and (3) to file any new charges that would otherwise be barred by this plea agreement. The defendant shall thereafter be subject to prosecution for any federal criminal violation of which the government has knowledge, including perjury, false statements, and obstruction of justice. The decision to pursue any or all of these options is solely in the discretion of the United States Attorney's Office.

By signing this plea agreement, the defendant agrees to waive any objections, motions, and defenses that the defendant might have to the government's decision. Any prosecutions that are not time-barred by the applicable statute of limitations as of the date of this plea agreement may be commenced in accordance with this paragraph, notwithstanding the expiration of the statute of limitations between the signing of this plea agreement and the commencement of any such prosecutions. The defendant agrees not to raise any objections based on the passage of time with respect to such counts including, but not limited to, any statutes of limitation or any objections based on the Speedy Trial Act or the Speedy Trial Clause of the Sixth Amendment to any counts that were not time-barred as of the date of this plea agreement.

In addition, (1) all statements made by the defendant to the government or other designated law

1 enforcement agents, or any testimony given by the defendant before a grand jury or other tribunal,  
2 whether before or after this plea agreement, shall be admissible in evidence in any criminal, civil, or  
3 administrative proceedings hereafter brought against the defendant; and (2) the defendant shall assert no  
4 claim under the United States Constitution, any statute, Rule 11(f) of the Federal Rules of Criminal  
5 Procedure, Rule 410 of the Federal Rules of Evidence, or any other federal rule, that statements made by  
6 the defendant before or after this plea agreement, or any leads derived therefrom, should be suppressed.  
7 By signing this plea agreement, the defendant waives any and all rights in the foregoing respects.

8 **F. Asset Disclosure.**

9 The defendant agrees to make a full and complete disclosure of his assets and financial condition, and  
10 will complete the United States Attorney's Office's "Authorization to Release Information" and  
11 "Financial Affidavit" within five (5) weeks from the entry of the defendant's change of plea. The  
12 defendant also agrees to have the Court enter an order to that effect. The defendant understands that this  
13 plea agreement is voidable at the option of the government if the defendant fails to complete truthfully  
14 and provide the described documentation to the United States Attorney's office within the allotted time.

15 **III. THE GOVERNMENT'S OBLIGATIONS**

16 **A. Agreement and Recommendations.**

17 **1. Other Charges**

18 The government agrees not to file any additional charges against the defendant that could be  
19 filed as a result of the investigation that led to the captioned Information.

20 **2. Incarceration Range.**

21 The government agrees to recommend a sentence of imprisonment of 3 and 1/2 months followed  
22 by a term of supervised release that substitutes home detention for custody for another 4 and 1/2 months.

23 **3. Acceptance of Responsibility.**

24 The government will recommend a two-level reduction in the computation of his offense  
25 level if the defendant clearly demonstrates acceptance of responsibility for his conduct as defined in  
26 U.S.S.G. § 3E1.1. This includes the defendant meeting with and assisting the probation officer in the  
27 preparation of the pre-sentence report, being truthful and candid with the probation officer, and not  
28 otherwise engaging in conduct that constitutes obstruction of justice within the meaning of U.S.S.G §

1 3C1.1, either in the preparation of the pre-sentence report or during the sentencing proceeding.

2 **B. Use of Information for Sentencing.**

3 The government is free to provide full and accurate information to the Court and Probation,  
4 including answering any inquiries made by the Court and/or Probation and rebutting any inaccurate  
5 statements or arguments by the defendant, his attorney, Probation, or the Court. The defendant also  
6 understands and agrees that nothing in this Plea Agreement bars the government from defending on  
7 appeal or collateral review any sentence that the Court may impose.

8 Further, other than as set forth above, the government agrees that any incriminating information  
9 provided by the defendant during his cooperation will not be used in determining the applicable  
10 guideline range, pursuant to U.S.S.G. § 1B1.8., unless the information is used to respond to  
11 representations made to the Court by the defendant, or on his behalf, that contradict information  
12 provided by the defendant during his cooperation.

13 **IV. ELEMENTS OF THE OFFENSE**

14 At a trial, the government would have to prove beyond a reasonable doubt the following  
15 elements of the offense(s) to which the defendant is pleading guilty:

16 **Conspiracy**

17 First, between November 2006 and December 2006, there was an agreement  
18 between two or more persons to commit the crime of bank fraud;

19 Second, the defendant became a member of the conspiracy knowing of at least  
20 one of its objects and intending to accomplish it; and

21 Third, one of the members of the conspiracy performed at least one overt act for  
22 the purpose of carrying out the conspiracy.

23 **Bank Fraud**

24 First, the defendant knowingly carried out a scheme or plan to obtain money or  
25 property from National City Bank by making false statements or promises;

26 Second, the defendant knew that the statements or promises were false;

27 Third, the statements or promises were material; that is, they had a natural  
28 tendency to influence, or were capable of influencing, a financial institution to part with

1 money or property;

2 Fourth, the defendant acted with the intent to defraud; and

3 Fifth, National City Bank was federally insured.

4 The defendant fully understands the nature and elements of the crimes charged in the  
5 information to which he is pleading guilty, together with the possible defenses thereto, and has  
6 discussed them with his attorney.

7 **V. MAXIMUM SENTENCE**

8 **A. Maximum Penalty.**

9 The maximum sentence that the Court can impose is 60 months of incarceration, a fine of  
10 \$250,000, a 3-year period of supervised release and a special assessment of \$100. By signing this plea  
11 agreement, the defendant also agrees that the Court can order the payment of restitution for \$87,000.  
12 The defendant further agrees, as noted above, that he will not attempt to discharge in any present or  
13 future bankruptcy proceeding any restitution imposed by the Court.

14 **B. Violations of Supervised Release.**

15 The defendant understands that if he violates a condition of supervised release at any time  
16 during the term of supervised release, the Court may revoke the term of supervised release and require  
17 the defendant to serve up to 2 additional years imprisonment.

18 **VI. SENTENCING DETERMINATION**

19 **A. Statutory Authority.**

20 The defendant understands that the Court must consult the Federal Sentencing Guidelines and  
21 must take them into account when determining a final sentence. The defendant understands that the  
22 Court will determine a non-binding and advisory guideline sentencing range for this case pursuant to the  
23 Sentencing Guidelines and must take them into account when determining a final sentence. The  
24 defendant further understands that the Court will consider whether there is a basis for departure from the  
25 guideline sentencing range (either above or below the guideline sentencing range) because there exists  
26 an aggravating or mitigating circumstance of a kind, or to a degree, not adequately taken into  
27 consideration by the Sentencing Commission in formulating the Guidelines. The defendant further  
28 understands that the Court, after consultation and consideration of the Sentencing Guidelines, must

1 impose a sentence that is reasonable in light of the factors set forth in 18 U.S.C. § 3553(a).

2 **B. Estimated Guideline Calculation.**

3 The government and the defendant agree that there is no material dispute as to the following  
4 sentencing guideline variables and therefore stipulate to the following:

- 5 1. Base Offense Level: 6 because the offense of conviction has a statutory  
6 maximum term of imprisonment of 5 years.
- 7 2. Loss Amount: +6 because the loss was more than \$40,000, but less than \$90,000.
- 8 3. Victim-related Adjustments: None
- 9 4. Role in the Offense Adjustment: +2 for abuse of a position of trust
- 10 5. Obstruction Adjustment: None
- 11 6. Adjusted Offense Level: 14
- 12 7. Acceptance of Responsibility: -2 See paragraph III.A.2 above
- 13 8. Criminal History: I
- 14 9. Departures: None
- 15 10. Departures or Other Enhancements or Reductions: -1 level for pre-Indictment  
16 plea.
- 17 11. Sentencing Range: 8 – 14 months

18 The parties agree that they will not seek or argue in support of any other specific offense  
19 characteristics, Chapter Three adjustments (other than the decrease for “Acceptance of Responsibility”),  
20 or cross-references, except that the government may move for a departure or an adjustment based on  
21 post-plea obstruction of justice (§3C1.1). Both parties agree not to move for, or argue in support of, any  
22 other departure from the Sentencing Guidelines, or any other deviance or variance from the Sentencing  
23 Guidelines under United States v. Booker, 543 U.S. 220, 125 S.Ct. 738 (2005).

24 The defendant acknowledges that if the defendant requests or suggests in any manner a different  
25 sentence than what is called for under this plea agreement, the plea agreement is voidable at the option  
26 of the government. The government, in its sole discretion, may withdraw from the plea agreement and  
27 continue with its prosecution of the defendant as if the parties had never entered into this plea  
28 agreement.

1       **C.     Specific Sentence Agreement.**

2       The parties agree to a sentence of imprisonment of 3 and 1/2 months followed by a term of  
3 supervised release that substitutes home detention for custody for another 4 and 1/2 months.

4                               **VII.     WAIVERS**

5       **A.     Waiver of Constitutional Rights.**

6       The defendant understands that by pleading guilty he is waiving the following constitutional  
7 rights: (a) to plead not guilty and to persist in that plea if already made; (b) to be tried by a jury; (c) to  
8 be assisted at trial by an attorney, who would be appointed if necessary; (d) to subpoena witnesses to  
9 testify on his behalf; (e) to confront and cross-examine witnesses against him; and (f) not to be  
10 compelled to incriminate himself.

11       **B.     Waiver of Appeal and Collateral Attack.**

12       The defendant understands that the law gives the defendant a right to appeal his guilty plea,  
13 conviction, and sentence. The defendant agrees as part of his plea, however, to give up the right to  
14 appeal the guilty plea, conviction, and the sentence imposed in this case as long as the sentence does not  
15 exceed the statutory maximum for the offense to which he is pleading guilty, which is five years. The  
16 defendant specifically gives up the right to appeal any order of restitution that the Court may impose.

17       Notwithstanding the defendant's waiver of appeal, the defendant will retain the right to appeal if  
18 one of the following circumstances occurs: (1) the sentence imposed by the District Court exceeds the  
19 statutory maximum; and/or (2) the government appeals the sentence in the case. The defendant  
20 understands that these circumstances occur infrequently and that in almost all cases this Agreement  
21 constitutes a complete waiver of all appellate rights.

22       In addition, regardless of the sentence the defendant receives, the defendant also gives up any  
23 right to bring a collateral attack, including a motion under 28 U.S.C. § 2255 or § 2241, challenging any  
24 aspect of the guilty plea, conviction, or sentence, except for non-waivable claims.

25       If the defendant ever attempts to vacate his plea, dismiss the underlying charge, or modify or set  
26 aside his sentence on the count to which he is pleading guilty, the government shall have the rights set  
27 forth in Section II.E herein.

**C. Waiver of Attorneys' Fees and Costs.**

The defendant agrees to waive all rights under the "Hyde Amendment," Section 617, P.L. 105-119 (Nov. 26, 1997), to recover attorneys' fees or other litigation expenses in connection with the investigation and prosecution of all charges in the above-captioned matter and of any related allegations (including without limitation any charges to be dismissed pursuant to this plea agreement and any charges previously dismissed).

**VIII. ENTIRE PLEA AGREEMENT**

Other than this plea agreement, no agreement, understanding, promise, or condition between the government and the defendant exists, nor will such agreement, understanding, promise, or condition exist unless it is committed to writing and signed by the defendant, counsel for the defendant, and counsel for the United States.

**IX. APPROVALS AND SIGNATURES**

**A. Defense Counsel.**

I have read this plea agreement and have discussed it fully with my client. The plea agreement accurately and completely sets forth the entirety of the agreement. I concur in my client's decision to plead guilty as set forth in this plea agreement.

Dated:

1/11/16

  
PAUL B. MELTZER  
Attorney for Defendant

**B. Defendant:**

I have read this plea agreement and carefully reviewed every part of it with my attorney. I understand it, and I voluntarily agree to it. Further, I have consulted with my attorney and fully understand my rights with respect to the provisions of the Sentencing Guidelines that may apply to my case. No other promises or inducements have been made to me, other than those contained in this plea

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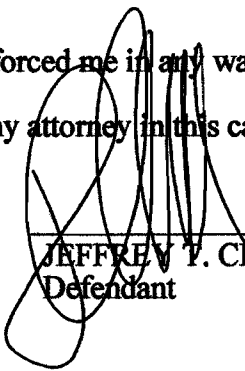
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1 agreement. In addition, no one has threatened or forced me in any way to enter into this plea agreement.

2 Finally, I am satisfied with the representation of my attorney in this case.

3 Dated:

1/18/2016

4   
JEFFREY T. CROTHERS  
Defendant

5  
6 **C. Attorney for United States:**

7 I accept and agree to this plea agreement on behalf of the government.

8 ~~January~~ 1,  
9 Dated: ~~January~~, 2016

BENJAMIN B. WAGNER  
United States Attorney

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11 JOHN K. VINCENT  
12 Assistant United States Attorney  
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EXHIBIT "A"

At all relevant times:

- a) Defendant JEFFREY T. CROTHERS worked for National City Mortgage in Stockton, California.
- b) National City Mortgage was a division of National City Bank.
- c) Loans approved by National City Mortgage were funded by National City Bank.
- d) National City Bank was a financial institution whose deposits were insured by the Federal Deposit Insurance Corporation, a United States government agency.

Between in or about November 2006 and in or about December 2006, in the State and Eastern District of California, defendant JEFFREY T. CROTHERS and at least one other person did knowingly and intentionally combine, conspire, confederate, and agree with each other to knowingly execute and attempt to execute a material scheme and artifice to defraud National City Bank and to obtain money, funds, assets, and other property owned by, and under the custody and control of, National City Bank by means of materially false and fraudulent pretenses, representations, and promises.

Defendant JEFFREY T. CROTHERS acted with intent to defraud National City Bank throughout.

To further the conspiracy and to effect the objectives thereof, defendant JEFFREY T. CROTEHRS did the following things, among others:

On or about November 13, 2006, defendant JEFFREY T. CROTHERS arranged for a person known to the Grand Jury and referred to herein as Person A to obtain a loan from National City Mortgage for the purchase of a residence at 10463 Clarks Fork Circle, Stockton, California (hereinafter the "Clarks Fork Circle Residence"). The loan was in the amount of \$392,000.

On or about that same day, defendant JEFFREY T. CROTHERS knowingly prepared, submitted, and caused to be prepared and submitted Person A's loan application that falsely represented that:

- a) Person A was the actual borrower;

- b) the Clarks Fork Circle Residence was to be Person A's secondary residence; and
- c) Person A's monthly income was \$25,000.

On or about November 18, 2006, in response to a National City Mortgage underwriting condition, defendant JEFFREY T. CROTHERS knowingly prepared, submitted, and caused to be prepared and submitted a letter which contained a false explanation as to why Person A was purchasing the Clarks Fork Circle Residence.

In truth and in fact, as defendant JEFFREY T. CROTHERS then well knew and believed:

- a) Person A was listed as the borrower because of his good credit, but was unable to make the monthly payments for the loan;
- b) the Clarks Fork Circle Residence was not to be Person A's secondary residence, but rather, was to be Person A's niece's primary residence;
- c) Person A's monthly income was substantially less than \$25,000; and
- d) the letter explaining why Person A was purchasing the Clarks Fork Circle Residence was false and was submitted simply to satisfy an underwriting condition.

The aforementioned false representations and documents submitted in the loan application process were material to the decision to fund Person A's loan.

National City Bank funded Person A's loan and sustained a loss of approximately \$87,000.

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by a series of loops and a long horizontal line extending to the right.